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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/784,622	02/14/2001	Frederik Ekkel	000117	2720

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EXAMINER

KANG, PAUL H

ART UNIT	PAPER NUMBER
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2144

DATE MAILED: 08/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/784,622	Applicant(s) EKKEK, FREDERIK	
	Examiner Paul H. Kang	Art Unit 2144	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4-13 and 19-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4-13 and 19-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

- a. Determining the scope and contents of the prior art.
- b. Ascertaining the differences between the prior art and the claims at issue.
- c. Resolving the level of ordinary skill in the pertinent art.
- d. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. **Claims 1, 4-13 and 19-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over McLain, US Pat. No. 6,493,758 in view of Taylor, US Patent No. 6,643,510, and further in view of Herrod, US Pat. App. No. 2001/0055978 A1.**

4. As per claim 1, McLain discloses the invention substantially as claimed. McLain teaches for use in an offline environment access to an information content that would otherwise be

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available except for being offline, a method of providing to an individual access to the information content (McLain, col. 2, lines 26-34), the method comprising:

at a terminal, providing access over an information network to a repository hosting the information content (McLain, col. 3, line 40 – col. 4, line 53);

causing transfer of the information content over the network from the repository to a mobile storage medium (McLain, col. 3, line 40 – col. 4, line 53); and

providing use of the information content from the storage medium to the individual in the offline environment (McLain, col. 3, line 40 – col. 4, line 53).

However, McLain does not explicitly teach the terminal being one of an airport, a spaceport, a boat dock, a train station, and a bus stop.

In the same field of endeavor, Taylor teaches a method of providing communication while traveling on an airplane or similar mobile platforms (See Taylor, Abstract and Summary). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have incorporated a mobile platform such as an airplane into the offline viewing system of McLain since airplanes are a common form for travel, suitable for a offline internet viewing system.

Further, McLain-Taylor do not explicitly teach the access over an information network being achieved via a publicly accessible access point apparatus. In the same field of endeavor, Herrod teaches a portable data terminal and cradle for storing information over a network via a publicly accessible access point (The mobile device 500 retrieves information over a nearby access point, and stores the information locally for later retrieval and access. Herrod, ¶¶0234-0235).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have incorporated the publicly accessible access point of Herrod into the mobile network devices of McLain-Taylor for the purpose of implementing a widely used and accepted means of mobile device network access.

5. As per claim 4, McLain-Taylor-Herrod teach the information network includes the Internet (McLain, col. 3, line 40 – col. 4, line 53).

6. As per claim 5, McLain-Taylor-Herrod teach the transfer of the information content is enabled over a wireless communication channel (McLain, col. 3, line 40 – col. 4, line 53).

7. As per claim 6, McLain-Taylor-Herrod teaches the invention as claimed wherein the storage medium includes an Optical storage medium (McLain, col. 5, line 66 – col. 6, line 54).

8. As per claim 7, McLain-Taylor-Herrod teach that the storage medium is provided to the individual when entering a means of transportation (McLain, col. 3, line 40 – col. 4, line 53 and Taylor, Summary).

9. As per claim 8, McLain-Taylor-Herrod teach identifying the individual; upon identification, enabling the individual to select the information content from a plurality of information contents (McLain, col. 7, line 32 – col. 8, line 36).

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10. As per claim 9, McLain-Taylor-Herrod teach enabling the individual enter identification information; selecting the information content based on the identification information (McLain, col. 7, line 32 – col. 8, line 36).

11. As per claim 10, McLain-Taylor-Herrod teach that the information content is selected based on a profile of the individual (McLain, col. 7, line 32 – col. 8, line 36).

12. As per claim 11, McLain-Taylor-Herrod teach charging a fee for transferring the information content (McLain, col. 3, line 40 – col. 4, line 53 and Taylor, background).

13. As per claims 12, McLain-Taylor-Herrod discloses at a transit terminal, providing access over an information network to a repository hosting the information content; at the transit terminal, enabling to transfer the information content over the network between the repository and a mobile storage medium, (McLain, col. 3, line 40 – col. 4, line 53 and Taylor, Summary);
assigning a traveling location to the individual in a means of transportation (such as an assigned seat on an airplane), the means of transportation including the mobile storage medium; and, providing at the assigned traveling location an apparatus to enable the individual to access the information content (Taylor, col. 5, lines 54-67).

14. As per claim 13, McLain-Taylor-Herrod discloses the information content is determined from a plurality of information contents on the basis of a profile of the individual (McLain, col. 3, line 40 – col. 4, line 53).

15. As per claim 19, McLain-Taylor-Herrod discloses a method of providing information content to a passenger of an aircraft, comprising: determining the information content that is of interest to the passenger , before the aircraft departs a terminal, transferring the information content from an information network to a storage medium, and providing the information content from the storage medium to the passenger while the aircraft is in flight (McLain, col. 3, line 40 – col. 4, line 53 and col. 7, line 32 – col. 8, line 36 and Taylor, col. 5, lines 54-67).

16. As per claims 20, 21, 22, 23, 24 and 25, McLain-Taylor-Herrod discloses determining the information content based on a predetermined profile that is associated with the passenger, transferring the information content automatically, equipping the aircraft with a storage medium, providing content and receiving information from user via network onboard, and providing a viewing device to the passenger (McLain, col. 3, line 40 – col. 4, line 53 and col. 7, line 32 – col. 8, line 36).

17. As to claim 26, McLain-Taylor-Herrod teach assigning a seat to the individual in the aircraft, and, providing access to the information content at the assigned seat (Taylor, col. 5, lines 54-67).

18. **Claims 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over McLain-Taylor-Herrod, and further in view of McCarten et al., US Pat. No. 6,047,127.**

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19. As to claim 27, McLain-Taylor-Herrod teach the invention substantially as claimed. However, McLain-Taylor-Herrod do not explicitly teach charging a fee for transferring the information content. In the same field of endeavor, McCarten teaches a electronic communication system wherein users are provided fee for service network access (all services provided in flight are fee for service benefits. McCarten, col. 1, line 17 – col. 2, line 17 and col. 11, lines 9-26).

Response to Arguments

20. Applicant's arguments with respect to claims 1-25 have been considered but are moot in view of the new ground(s) of rejection. The applicants argued in substance that the prior art of record failed to teach a publicly accessible access point. The new grounds of rejection teaches this feature.

Further, applicants argue that there is no suggestion in either McLain or Taylor to combine teachings. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, both McLain and Taylor teach a system and method to enable reliable network data availability. While McLain achieves this by offline viewing of content, this is not

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incompatible with Taylor's realtime availability and content scheduling. In fact, the two approaches are complementary.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

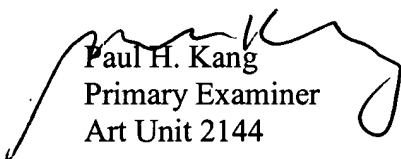
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul H. Kang whose telephone number is (571) 272-3882. The examiner can normally be reached on 9 hour flex. First Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Vaughn can be reached on (571) 272-3922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Paul H. Kang
Primary Examiner
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